

REMARKS:**I. Introduction**

In the Office Action mailed on November 22, 2005, the Examiner rejected claims 1 to 6, 10, and 12 to 17. The present amendment cancels claim 17, amends claim 1, and adds new claims 18 and 19. Accordingly, claims 1 to 6, 10, 12 to 16, 18, and 19 are now pending in this application.

II. Claim Rejection Based on 35 U.S.C. § 103(a)

The Examiner rejected claims 1 to 6, 10, and 12 to 17 under 35. U.S.C. § 103(a) as unpatentable over Edwards (US 3,091,360) in view of Eyles (US 3,353,707) and further in view of Pearce –Smith (GB 859,964).

The plastic drinking cups disclosed by Edwards do not disclose or reasonably suggest the present invention as claimed even if they are plant pots as considered by the Examiner. The plastic drinking cups are thin-walled cups designed to provide a resilient stack without the cups wedging together in a manner that the bottom cup will not separate from the stack under its own weight. For each of the disclosed embodiments, "sections are provided for utilizing the inherent resiliency of the plastic, either directly, or by wedging action or both, whereby to impart a resilient characteristic to a stack of cups telescoped together." Column 5, lines 57 to 61. The first embodiment (figures 1 to 5) provides wedge-shaped protuberances or nibs 36 (see column 3, lines 33 to 41). The second embodiment (figures 6 to 10) provides wedge-shaped protuberances or nibs 136 like the first embodiment and wedge or cam surfaces 140 that cause cup distortion in localized areas (see column 4, lines 57 to 66). The third embodiment (figures 11 and 12) provides wedge-shaped protuberances or nibs 236 like the first and second embodiments and a tapered surface 242 that cause cup distortion in localized areas (see column 5, lines 14 to 20). The fourth embodiment (figure 13) removes the nibs and utilizes bumps 444 on the lower ledge that cause cup distortion in localized areas (see column 5, lines 30 to 37). The fifth embodiment (figure 14) provides inward shaped ribs 736 that cause cup distortion in localized areas (see column 5, lines 50 to 53).

In contrast, deep-drawn plastic plant pots of the present invention have relatively rigid walls that do not easily deflect when removing the pots from the forming tool. This is the very heart of the problem which the present invention solves. The wave-shape of the present invention softens the cross-sectional stiffness without substantially affecting the axial stiffness

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so that the pots can be removed from the forming tool yet still form rigid vertical stacks. Thus the present invention does not take advantage of inherent resiliency either directly or by wedging to obtain a resilient stack. In fact the present invention does not obtain a resilient stack at all. The plant pots of the present invention are stacked one upon another without deformation to form a rigid stack.

As suggested by the Examiner in the latest Office Action, applicant has further defined the limitations of prior dependent claim 17 which are now within independent claim 1. As best shown in FIG. 4 of the present invention, an inner edge of the first or upward-facing ledge (7) is larger in the radial direction than an inner edge of the second or downward-facing ledge (8). When the plant pots are stacked with the downward-facing ledge (8) of one pot engaging the upward-facing ledge (17) of the adjacent plant pot, the plant pots are supported in a rigid stack without deformation of either pot. In fact, in the illustrated embodiment there is a gap or annular play (11) therebetween (see FIG. 4). This is not the case with any embodiment of the plastic cups disclosed by Edwards because Edwards is designed to create wedging and/or deformation. In the latest Office Action with regard to claim 17, the Examiner indicated that the limitation was shown in "Edwards Fig. 2 #232 and 234 and Fig. 7." With regard to FIG. 2 of Edwards, applicant notes that the inner edge of the downward-facing ledge (34) is radially outward of the inner edge of the upward-facing ledge 32 so that there is wedging action when stacked as discussed above. With regard to FIG. 12 of Edwards, applicant notes that the inner edge of the downward-facing ledge (234) is radially outward of the inner edge of the upward-facing ledge 232 so that there is wedging action and deformation when stacked as discussed above. With regard to FIG. 7, this view does not show the relationship but it is the same embodiment as shown in FIG. 9. With regard to FIG. 9 of Edwards, applicant notes that the inner edge of the downward-facing ledge (134) is radially outward of the inner edge of the upward-facing ledge 132 so that there is wedging action and deformation when stacked as discussed above.

Independent claim 1, and claims dependent therefrom, are allowable because they each include the limitation "wherein an inner edge of the first ledge is larger in the radial direction than an inner edge of the second ledge." No prior art of record reasonably discloses or suggests the present invention as defined by claim 1. Reconsideration and withdrawal of the rejection is requested.

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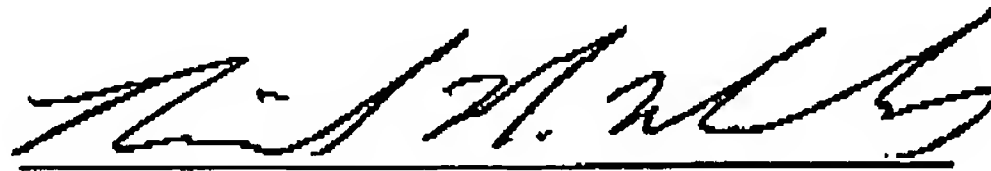
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III. Conclusion

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is found that the present amendment does not place the application in a condition for allowance, Applicant's undersigned attorney requests that the Examiner initiate a telephone interview to expedite prosecution of the application.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-2326.

Respectfully submitted,



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